

IC 14-27-7

Chapter 7. Dams, Dikes, and Levees; Regulation

IC 14-27-7-1

"Owner" defined

Sec. 1. As used in this chapter, "owner" means an individual, a firm, a partnership, a copartnership, a lessee, an association, a corporation, an executor, an administrator, a trustee, the state, an agency of the state, a municipal corporation, a political subdivision of the state, a legal entity, a drainage district, a levee district, a conservancy district, any other district established by law, or any other person who has a right, a title, or an interest in or to the property upon which the levee, dike, or floodwall and appurtenant works is located.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.6.

IC 14-27-7-2

Maintenance and repair

Sec. 2. The owner of a levee, dike, or floodwall and appurtenant works shall maintain and keep the structures and appurtenant works in the state of repair and operating condition required by the following:

- (1) The exercise of prudence.
- (2) Due regard for life or property.
- (3) The application of sound and accepted engineering principles.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.7.

IC 14-27-7-3

Powers and duties of department

Sec. 3. The department:

- (1) has, on behalf of the state, jurisdiction and supervision over the maintenance and repair of levees, dikes, floodwalls, and appurtenant works in, on, or along the rivers and streams of Indiana;
- (2) shall exercise care to see that the dikes, floodwalls, levees, and appurtenances are maintained in a good and sufficient state of repair and operating condition to fully perform the intended purpose;
- (3) may adopt rules under IC 4-22-2 for maintenance and operation that are necessary for the purposes of this chapter; and
- (4) may vary the standards for maintenance and operation, giving due consideration to the following:
 - (A) The type and location of the dike, floodwall, levee, or appurtenance.
 - (B) The hazards to which the dike, floodwall, levee, or appurtenance is or may be exposed.
 - (C) The peril to life or property if the dike, floodwall, levee, or appurtenance fails to perform the structure's function.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.8.

IC 14-27-7-4

Engineering inspections

Sec. 4. (a) The department shall make an engineering inspection of all levees, dikes, and floodwalls and appurtenant works:

- (1) at least one (1) time every three (3) years or at more frequent intervals if the exigencies of the case require; or
- (2) upon the written request of an affected person or agency.

(b) The department shall place in the files of the department a report of each inspection conducted under subsection (a).

(c) This chapter does not apply to the following:

- (1) A levee, dike, or floodwall that meets both of the following conditions:
 - (A) Is under a single private ownership.
 - (B) Provides protection only to land or other property under the single private ownership.
- (2) A dike, floodwall, or levee that is regulated under the federal Mine Safety and Health Act of 1977, unless the dike, floodwall, or levee is proposed to be retained as a permanent structure after bond release.

As added by P.L.1-1995, SEC.20. Amended by P.L.75-1998, SEC.4; P.L.148-2002, SEC.9.

IC 14-27-7-5

Notice of violation

Sec. 5. If the department finds that a dike, floodwall, levee, or appurtenance is:

- (1) not sufficiently strong;
- (2) not maintained in a good and sufficient state of repair or operating condition; or
- (3) unsafe and dangerous to life or property;

the department shall issue a notice of violation to the owner of the dike, floodwall, levee, or appurtenance under IC 14-25.5-2.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.10; P.L.71-2004, SEC.11.

IC 14-27-7-6

Emergency measures to protect life and property

Sec. 6. (a) If at any time the condition of a levee, a dike, a floodwall, or an appurtenance becomes so dangerous to the safety of life and property that, in the opinion of the department there is not sufficient time for the issuance and enforcement of a notice of violation for the maintenance, alteration, repair, reconstruction, change in construction or location, or removal of the dike, floodwall, levee, or appurtenance in the manner provided in this chapter, the department may immediately take the measures that are essential to provide emergency protection to life and property.

(b) The department may recover the cost of the emergency measures from the owner by appropriate legal action.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.11.

IC 14-27-7-7

Violations

Sec. 7. An owner who knowingly fails to effect the maintenance, alteration, repair, reconstruction, change in construction or location, or removal within the time limit set forth in the notice of violation of the department under:

- (1) section 5 of this chapter; or
- (2) IC 13-2-20-4 (before its repeal);

commits a Class B infraction. Every day of failure constitutes a separate infraction.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.12; P.L.71-2004, SEC.12.

IC 14-27-7-8

Right of entry upon premises

Sec. 8. The department and the department's agents, engineers, and other employees may, for the purposes of determining the department's jurisdiction and performing the engineering inspections provided in section 4 of this chapter, enter upon any land or water in Indiana without liability for trespass. The owner of a levee, dike, or floodwall and appurtenant works shall do the following:

- (1) Cooperate with the department and the department's agents, engineers, and other employees in the conduct of the inspections.
- (2) Facilitate access to the dike, floodwall, levee, or appurtenance.
- (3) Furnish upon request the plans, specifications, operating and maintenance data, or other information that is pertinent to the dike, floodwall, levee, or appurtenance.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.13.

IC 14-27-7-9

Exemption of department from liability

Sec. 9. This chapter does not create a liability for damages against the department or the department's officers, agents, and employees caused by or arising out of any of the following:

- (1) The construction, maintenance, operation, or failure of a levee, dike, or floodwall and appurtenant works.
- (2) The issuance and enforcement of a notice of violation or a rule issued by the department to carry out the department's duties.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.14.